

Amendment No. 1 to HB1963

Matheny
Signature of Sponsor

AMEND Senate Bill No. 2162

House Bill No. 1963*

by deleting all language after the enacting clause and by substituting instead the following:

SECTION 1. Tennessee Code Annotated, Section 50-6-241, is amended by adding the following as a new subsection:

(e)

(1) It is the intent of the general assembly to adopt as public policy for the state of Tennessee specific provisions related to workers' compensation to preserve the tradition of legal immigration while seeking to close the door to illegal workers in the state of Tennessee and to encourage the employers of Tennessee to comply with federal immigration laws in the hiring or continued employment of individuals who are not eligible or authorized to work in the United States.

(2) The general assembly takes notice that federal law prohibits a pre-injury employer from permitting an employee to return to work following the work related injury when the employee is not eligible or authorized to work in the United States pursuant to federal immigration laws; and, therefore, the general assembly adopts the following as the compensation to which such an employee is entitled for permanent partial disability benefits:

(A) For injuries occurring on or after July 1, 2009, in cases in which an injured employee is eligible to receive any permanent partial disability benefits either for body as whole or schedule member injuries, the maximum permanent partial disability benefits that the employee may receive is up to

one and one-half (1½) times the medical impairment rating determined pursuant to § 50-6-204(d)(3) provided the employer did not knowingly hire the employee at a time when the employee was not eligible or authorized to work in the United States under federal immigration laws. It shall be presumed the employer did not knowingly hire the employee at a time when the employee was not eligible or authorized to work in the United States under federal immigration laws if the employer can show, by a preponderance of the evidence, that the employer in good faith complied with the employment eligibility and identity verification requirements of federal law when the employee was hired:

(i) By ensuring the employee completed Section 1 of the Form I-9 at the time the employee started to work;

(ii) By reviewing the documents provided by the employee to establish the employee's identity and eligibility to work;

(iii) By making a good faith determination that the documents presented by the employee for employment and identity authorization appeared to relate to the employee, appeared to be genuine and that the documents provided were in the list of acceptable documents on Form I-9; and

(iv) By re-verifying the employment eligibility of the employee upon the expiration of the employee's work authorization and by completing Section 3 of Form I-9, if applicable.

(B) The presumption established in subdivision (e)(2)(A) may be rebutted if the employee can show, by a preponderance of the evidence, that the employer had actual knowledge of the ineligible or unauthorized status of the employee at the time of hire or at the time of the injury or both. If the presumption is rebutted, a sum of up to five (5) times the medical impairment

rating determined by the authorized treating physician pursuant to § 50-6-204(d)(3) shall be paid in the following manner:

(i) A sum up to one and one-half ($1\frac{1}{2}$) times the medical impairment rating shall be paid in a lump sum to the employee, such sum to be paid by the employer's insurer; and

(ii) An additional sum up to three and one-half ($3\frac{1}{2}$) times the medical impairment rating shall be paid by the employer, in a lump sum into, and shall become a part of, the uninsured employers fund created by § 50-6-801; provided, that such sum shall not be paid by the employer's insurer.

SECTION 2. Tennessee Code Annotated, Section 50-6-242, is amended by adding the following as a new subsection:

(c) Subsections (a) and (b) of this section shall not apply to injuries sustained on or after July 1, 2009, by an employee who is not eligible or authorized to work in the United States under federal immigration laws.

SECTION 3. This act shall take effect upon becoming a law, the public welfare requiring it.